

ARTICLE APPEARED
ON PAGE 7NEW YORK TIMES
26 July 1986

Juror Says Tax Inquiry Led To Conviction of Naval Spy

By KATHERINE BISHOP

Special to The New York Times

SAN FRANCISCO, July 25 — An Internal Revenue Service investigation of extravagant expenditures by Jerry A. Whitworth, coupled with records of money he received for spying, were the "absolutely deadly evidence" that led the jury to convict him of espionage and tax fraud Thursday, the jury foreman said in an interview today.

The foreman, Donald A. Neumann, an economist who lives in San Francisco, said, "The trail of spending was so far in excess of his income and he did it in a manner that he was obviously hiding the source of income."

The fact that deliberations lasted 52 hours over 10 days led to speculation that jurors were having difficulty reaching a verdict. But Mr. Neumann said the jury had spent the time slowly and methodically reviewing all the evidence. "Because of the sheer complexity of the case, it was a time-consuming process, that's all," he said.

At trial, defense attorneys acknowledged that Mr. Whitworth, who retired from the Navy in 1983, had stolen classified Navy coding data and messages from various ships and land stations and passed them to John A. Walker Jr. in exchange for \$332,000 and that he had failed to report the money on income tax returns.

The admissions were aimed at obtaining acquittal on the espionage charges, each of which carries a possible sentence of life in prison, in exchange for conviction on a lesser offense of passing classified cryptographic data to an unauthorized person. The lesser charge carries a maximum prison term of 10 years per count.

The defense argued that Mr. Whitworth did not initially know that the stolen materials were being sold to the Soviet Union because Mr. Walker had convinced him they were being sold to Israel. When Mr. Whitworth discovered it he attempted to extricate himself from the situation and abruptly retired from the Navy, defense attorneys told the jury.

Argument Was Rejected

Today, Mr. Neumann said the jury rejected that argument based in part on Mr. Whitworth's Navy training, oaths he signed never to disclose information about cryptographic materials and his experiences aboard ships in the Pacific and their encounters with Soviet ships and airplanes.

"Who does he think is following our ships around the world?" Mr. Neumann asked. "How could he not know they have a profound interest in our cryptographic data?"

In a closing argument, the chief defense attorney, James Larson, also admitted that Mr. Whitworth was the author of a series of anonymous letters received by the Federal Bureau of Investigation in 1984. In the letters Mr. Whitworth initially offered to expose the espionage conspiracy in exchange for anonymity and freedom from prosecution. He later changed his mind and ended communication with the F.B.I.

Mr. Neumann said this admission "saved the jury a lot of time" but that he personally believed Mr. Whitworth wrote the letters before it was admitted.

Whitworth Called 'Tragic'

Mr. Whitworth was unable to report Mr. Walker to the authorities, the defense attorneys asserted, because of the "tension between ratting out a friend and the tremendous personal loyalty that was completely misplaced."

Mr. Neumann said of Mr. Whitworth: "He had a flawless record. That's what's so tragic. It was just the seduction of money and the chicanery of John Walker."

The jury was unable to reach a verdict on one of the eight counts of espionage in the indictment. It charged Mr. Whitworth with obtaining a classified document, a portion of the Navy's war-time contingency plan for the Middle East, with the intent of passing it to be used to aid the Soviet Union or harm the United States.

Mr. Neumann said the jury could not figure out why it had been left in Mr. Whitworth's desk, as that seemed inconsistent with his pattern of passing materials to Mr. Walker.

Of the two men, Mr. Neumann said the jury found Mr. Whitworth "pathetic" and Mr. Walker "significantly more villainous."